

SUPREME COURT OF MISSOURI

State of Missouri v. Brenda Churchill

454 S.W.3d 328 (Mo. banc 2015) · No. SC94226 · Decided February 3, 2015

SUMMARY

The Supreme Court of Missouri affirmed Brenda Churchill’s perjury conviction arising from false testimony during an emergency protective-custody hearing concerning her son. The court held that the civil nature of the protective-custody proceeding did not provide a Sixth Amendment or due-process right to counsel, and that any statutory right to counsel did not authorize Churchill to delay the hearing or testify falsely. The court also held that the privilege against self-incrimination protects a witness’s choice to remain silent or answer truthfully, but does not permit perjury or bar use of false testimony in a subsequent perjury prosecution.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Paul C. Wilson; Russell, C.J.; Breckenridge, J.; Fischer, J.; Stith, J.; Teitelman, J.; Draper, J.
JURISDICTION	Missouri
DECIDED	February 3, 2015
DOCKET	SC94226
DISPOSITION	affirmed
PROCEDURAL POSTURE	Churchill appealed her bench-trial conviction for perjury after the circuit court overruled her motion to suppress testimony given during an earlier juvenile protective-custody hearing.
STANDARD OF REVIEW	A suppression ruling is affirmed if supported by substantial evidence from the suppression hearing or trial; credibility determinations are reviewed deferentially, while questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Missouri; precedential
PARTIES	Brenda Churchill v. State of Missouri

TOPICS

- criminal procedure
- evidence
- due process
- right to counsel
- family law

PRACTICE AREAS

criminal law

juvenile law

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether Churchill's Sixth Amendment, Fourteenth Amendment, Missouri constitutional, or statutory right to counsel required suppression of her testimony from the civil protective-custody hearing.
2. Whether Churchill's privilege against self-incrimination barred the State from using her knowingly false testimony to prosecute her for perjury.
3. Whether the evidence was sufficient to establish that Churchill's false testimony concerned a material fact.
4. Whether Churchill's later delivery of JC constituted a statutory retraction of her false testimony.
5. Whether the trial court erred by denying relief on a retraction defense raised for the first time on appeal.

HOLDINGS

1. The Sixth Amendment and analogous Missouri constitutional right to counsel did not apply because the protective-custody proceeding was civil rather than criminal. Churchill also had no due-process right to counsel based on a risk of imprisonment because the proceeding was not intended to incarcerate her.
2. Even assuming Churchill had a statutory right to counsel at the initial protective-custody hearing, that right did not create an absolute right to delay the hearing while obtaining counsel. The trial court did not abuse its discretion by proceeding, and the use of Churchill's false testimony in the later perjury prosecution was not barred.
3. The privilege against self-incrimination is a right to remain silent, not a right to testify falsely. It does not bar the use of knowingly false testimony to prosecute the witness for perjury, even if the testimony was elicited in violation of the privilege.
4. The evidence was sufficient to prove materiality because the existence of JC was a material fact in the protective-custody proceeding. The State was not required to prove that Churchill's lie actually changed the proceeding's outcome or that the judge relied on it.
5. Churchill was not entitled to relief based on retraction because she failed to raise the retraction defense in the trial court. The trial court could not have erred by refusing to credit a defense that was never asserted.

KEY QUOTATIONS

"The right to be represented at a hearing does not necessarily entail an absolute right to delay that hearing while one secures such representation." (454 S.W.3d at 337)

"The answer is that it can. Accordingly, even if the Court assumes that the judge erred by proceeding with the initial protective custody hearing despite Churchill's requests for delay to obtain counsel, which seems unlikely, that error did not relieve her of her oath and obligation to tell the truth, the whole truth, and nothing but the truth." (454 S.W.3d at 338)

“The constitutional privilege against self-incrimination is a right to remain silent; it is not a right to testify falsely.” (454 S.W.3d at 338-39)

“There is no third option.” (454 S.W.3d at 339)

FACTUAL BACKGROUND

The juvenile officer sought protective custody of a child, JC, believed to be living with Churchill. Although Churchill had been summoned to appear and bring the child, she repeatedly testified under oath that JC did not exist, despite requests for counsel and warnings that false testimony could result in perjury charges. Seventeen days after the initial hearing, Churchill and her counsel surrendered JC to the juvenile officer. Churchill was later convicted of perjury based on her false testimony.

PROCEDURAL HISTORY

A juvenile officer filed an emergency petition for protective custody concerning Churchill's allegedly five-year-old son. Churchill testified under oath that the child did not exist, later surrendered the child, and was charged with perjury. The circuit court denied her suppression motion, conducted a bench trial, found her guilty, and sentenced her to four years in prison. The Supreme Court of Missouri affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Gaw, 285 S.W.3d 318, 319 (Mo. banc 2009)
- Turner v. Rogers, 131 S. Ct. 2507, 2516 (2011)
- Maine v. Moulton, 474 U.S. 159, 170 (1985)
- United States v. Wade, 388 U.S. 218, 224 (1967)
- State v. Adams, 483 S.E.2d 156, 157 (N.C. Sup. Ct. 1997)
- In re AMB, 640 N.W.2d 262, 303-04 (Mich. Ct. App. 2001)
- State ex rel. Family Support Div. - Child Support Enforcement v. Lane, 313 S.W.3d 182, 186 (Mo. App. 2010)
- Glickstein v. United States, 222 U.S. 139, 142 (1911)
- Bryson v. United States, 396 U.S. 64, 72 (1969)
- United States v. Knox, 396 U.S. 77, 82 (1969)
- United States v. Mandujano, 425 U.S. 564, 582 (1976)
- United States v. Wong, 431 U.S. 174, 178, 180 (1977)
- State v. Faulkner, 75 S.W. 116, 121, 138 (Mo. 1903)
- State v. Caperton, 207 S.W. 795, 796 (Mo. 1918)
- State v. Moran, 115 S.W. 1126 (Mo. 1909)

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